AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

withdrawal of availability will be approved at the same level of command as that required for determining the property available for non-Army use. The office responsible for effecting temporary use of the property should be promptly notified of the withdrawal of availability for non-Army use and the latest date the property will be required for military purposes. Termination of the use will be in accordance with the provisions of the grant unless military necessity requires other action. In order to avoid possible claims for damages and in the interest of good community relations and in furtherance of the Army's leasing program, the grantee will be allowed, when practicable, a reasonable time after notice of revocation, to vacate the premises, remove his property and, if required, restore the premises. In controversial cases, or where a claim for damages or litigation is anticipated, HQDA (DAEN-REM) WASH DC 20314, will be notified of the circumstances prior to sending notification of termination of the grant to the grantee.

§ 643.14 Inspection to assure compliance with terms of outgrants.

Commanders will provide general surveillance over areas made available for non-Army use and will advise the DE if and when there are any irregularities. Real estate which is being used for non-military purposes will be inspected at least once each year by the COE, or by his representative, to determine whether grantees or occupants are complyng with the terms of the instruments authorizing use and occupancy, except with respect to easements and licenses for rights-of-way for roads, streets, powerlines, pipelines, underground communication lines and similar facilities. The COE will make compliance inspections for such easements and licenses at least once during each 5-year period. However, the DE will check with installation commanders annually to assure that there are no situations which might need correction prior to the inspection. The installation commander will make interim inspections of all real estate being used for non-military purposes as are necessary for timely observation of the extent of compliance with grant provisions designed to protect and preserve the real estate for military requirements, and will furnish the appropriate DE a copy of a written report of the inspection reflecting findings and recommendations. In order that the grantee's operations not be unreasonably disrupted, the annual compliance inspection made by the DE will be coordinated with the installation commander so that, if feasible, only one inspection will be made. Where necessary, corrective action in accordance with applicable regulations will be taken for the enforcement of the terms of the grant by the responsible officer who granted the use. Overseas commanders are responsible for inspection of real estate under their jurisdiction and necessary corrective action.

§ 643.15 Unauthorized use.

Whenever it is observed that real estate under the control of the DA is being used and/or occupied by private parties without proper authority, corrective action will be taken to cause such unauthorized use to be discontinued or to formalize such use and occupancy by an appropriate grant in accordance with this regulation. In either event, compensation will be obtained for the unauthorized use of such property.

Subpart B—Policy

§ 643.21 Policy—Surveillance.

Installation Commanders will maintain constant surveillance over real estate under their jurisdiction to determine whether any of it is excess to requirements, or may be made available for other Army use, or may be made available for use for other than Army purposes and will process such determinations expeditiously in accordance with the provisions of this regulation. From time to time DOD, DA and GSA surveys will be made pursuant to Executive Order 11954, 7 January 1977, which enunciated a uniform policy for the Executive Branch of the Federal Government with respect to the identification of excess and under-utilized real estate (AR 405–70). Real estate for which is retained for future use will be a requirement which will be disposed of in accordance with AR 405–90. Real estate

which the Army does not currently need but which is retained for future use will be made available to others for use either exclusively or concurrently with the Army. When an installation is in an inactive status, the presumption is that it is available for other military or Federal use or for leasing unless there are cogent reasons that such action should not be taken. The purpose of this rule is to put to beneficial use Federal property, which is not for the time required for its basic use, for the benefit of other Federal agencies, the local economy, or for the benefits accruing to the United States from the income and/or savings of maintenance, protection, repair, or restoration.

§ 643.22 Policy—Public safety: Requirement for early identification of lands containing dangerous materials.

(a) DA will not make available to others any real estate which is contaminated with explosives or with toxic materials or other innately or potentially harmful elements until such elements have been removed or have been rendered harmless, unless the proposed user of the area is aware of the condition of the area and is technically qualified and certified to make use of the area in its contaminated state.

(b) It is imperative that commanders keep records on and have a continuing awareness of the state of contamination of lands by explosives, military chemical or other dangerous materials.

(c) Procedures with respect to action to neutralize or decontaminate the area are set forth in AR 405–90.

§ 643.23 Policy—Preference.

Army real estate under the control of DA which is made available for use for other than Army purposes will be made available for use by other military departments or DOD activities and agencies, other Federal departments, activities or agencies, State or local governmental bodies and other private parties, in that order.

§ 643.24 Policy—Competition.

The use of real estate under the control of DA for private purposes will be granted only after reasonable efforts have been made to obtain competition for its use, through advertising. Advertising is any method of public announcement intended to aid directly or indirectly in obtaining offers on a competitive basis. Advertising may be accomplished by circulating and posting notices and by paid advertising in newspapers and trade journals. The purpose of seeking competition is to afford all qualified persons equal opportunity to bid for the use of the property, to secure for the Government the benefits which flow from competition, and to prevent criticism that favoritism has been shown by officers or employees of the Government in making public property available for private use. Although the lease of Government real estate to civilians employed by the military departments or officers or enlisted personnel of the Armed Forces is not prohibited by law, it is essential that extreme care be exercised to avoid favoritism or the appearance of favoritism. Generally leases to Federal Government personnel will be granted only after competitive bid under the sealed bid method. The provisions of this paragraph do not affect the authority contained in AR 210–10 and 210–50 for furnishing quarters to civilian employees of DA. Also the provisions of this paragraph do not affect the use of Federal facilities by uniformed personnel as may be otherwise provided for. Other exceptions to the advertising policy are as follows:

(a) Granting easements, leases and licenses to public agencies and public utilities.

(b) Granting permits to other Federal agencies.

(c) Leasing cable pairs.

(d) Leases or licenses to utility companies having an exclusive franchise in the area, for space on Government-owned poles for attaching their electric transmission communication lines.

(e) COE is authorized to grant a waiver of competition upon a determination that it will promote the national defense or will be in the public interest or upon a determination that competition is impracticable.